



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Kwame Raoul
ATTORNEY GENERAL

June 3, 2019

The Honorable Elisabeth DeVos
Secretary
U.S. Department of Education
400 Maryland Ave SW
Washington, D.C. 20202

RE: Group Borrower Defense to Repayment Applications for Illinois Westwood and Corinthian Students

Dear Secretary DeVos,

I write you to demand that the U.S. Department of Education (the “Department”) render decisions on the group discharge applications submitted to you by the Illinois Attorney General’s Office for certain former Westwood and Corinthian students (the “Westwood DTR Application,” and the “Corinthian DTR Application”). The recent federal district court decision in Massachusetts, *Williams v. DeVos*, requires the Department to review group discharge applications submitted by state attorneys general. *See Williams v. DeVos*, CV 16-11949-LTS, 2018 WL 5281741 *10 (D. Mass. Oct. 24, 2018). In addition, *Williams* dictates that the Department cease all involuntary collection actions against the more than 10,000 students individually listed in those applications until such decisions are rendered. *See Id.* at *15.

Despite receiving the Westwood and Corinthian DTR Applications over two years ago, the Department has failed to even acknowledge receipt, let alone render decisions. These failures are particularly alarming in light of ongoing reports that the Department is also failing to consider individualized applications submitted by borrowers.¹ The students in my Office’s applications were subject to deception by their schools as a matter of course, derailing their educations and careers. As detailed below, the Westwood DTR Application catalogs Westwood’s fraud with more than four years of evidence vetted through litigation, while the Corinthian DTR application

¹ Douglas-Gabriel, Danielle, ‘Don’t you have a heart?’: Senate Democrats press DeVos on backlog of 140,000 student debt-relief claims, Washington Post (March 28, 2019), available at https://www.washingtonpost.com/education/2019/03/28/dont-you-have-heart-senate-democrats-press-devos-backlog-student-debt-relief-claims/?utm_term=.d374fa920b20.

rests on the Department's own findings of fraud. Both applications list each Illinois borrower eligible for relief. The Department's failure to consider the Westwood and Corinthian DTR Applications has left these same borrowers financially distressed, subject to involuntary collections, and unable in many cases to borrow money to go back to school. These failures also negatively impact Illinois and our higher education institutions as our state schools seek to fulfill their mission to educate all Illinoisans.

In November 2016, my Office made a group discharge application for all Illinois students who attended Westwood's criminal justice program from the inception of the program in 2004 until the school closed in early 2016. See **Exhibit 1**, cover letter to Westwood DTR Application. As you know, the Illinois Attorney General's Office sued Westwood College in January 2012 for deceiving criminal justice students about their ability to become police officers. These deceptions violated the Illinois Consumer Fraud Act. In late 2015, that matter settled, the school ceased enrollment nationwide, and closed in early 2016. The settlement provided for the discharge of all institutional loans for the borrowers in the Westwood DTR Application. Importantly, that settlement did not include relief for the federal loans taken out by these former students because the school was financially unable to provide that relief.

The Westwood DTR Application provided the Department with a plethora of materials evidencing Westwood's pattern and practice of deception surrounding its criminal justice program in Illinois, including proposed findings of fact, proposed conclusions of law, exhibits, call transcripts between school representatives and prospective students, deposition transcripts, expert reports, interrogatory responses, and a list of all defrauded students. The application was supplemented in January 2017. See **Exhibit 2**, DTR Applications supplement cover letter. The Department has never responded to the Westwood DTR Application.

In December 2016, my Office also requested that the Department grant discharges to Illinois Corinthian students the Department itself found had been defrauded. See **Exhibit 3**, Corinthian DTR Application cover letter. My staff took Corinthian enrollment data provided by the Department and analyzed and cross checked it against data obtained from my Office's own years-long investigation into Corinthian. The result was a list of thousands of student borrowers indisputably subject to Corinthian's fraud. This list and our methodology was submitted as part of the Corinthian DTR Application. This application was also supplemented in January 2017. See **Exhibit 2**. The Department has never responded to the Corinthian DTR Application.

Given the lack of response, it is not apparent whether the Department considered our applications at all. The United States District Court, District of Massachusetts recently held that the Department acted arbitrarily and capriciously when it failed to consider the Massachusetts Attorney General's group discharge application for Corinthian students: "the Court finds that Attorney General Healey's DTR submission was sufficient to require the Secretary to determine the validity of the plaintiffs' borrower defense." *Williams v. DeVos*, 2018 WL 5281741 at *12 (D. Mass. 2018). The same reasoning compels the Department to render a decision on my Office's Westwood and Corinthian DTR Applications.

To the extent the Department further delays a decision on the Westwood and Corinthian DTR applications, it must cease involuntary collections on the borrowers named in those applications.

While the Department is within its rights to collect from borrowers involuntarily if they fail to make payments on their loans – through wage garnishment, or seizure of tax refunds – the *Williams* Court also made clear that to do so for individuals named in pending group discharge applications is arbitrary and capricious under the Administrative Procedures Act. *See Id.* at 15. In *Williams*, two Massachusetts borrowers challenged the seizure of their income tax refunds by the Department (via the IRS) while a group discharge application from the Massachusetts Attorney General’s Office was pending. The application included the borrowers in *Williams* among those it was seeking discharge for. The *Williams* Court held that the certification for involuntary collection of loans for borrowers covered by the Massachusetts Attorney General’s group discharge application was arbitrary and capricious. *Id.* at *14. (“[C]ertification, without consideration of Attorney General Healey’s [group discharge application] submission, was arbitrary and capricious.”). By this same reasoning, any certifications for collection currently taking place for students contained in the Westwood or Corinthian DTR Applications would likewise be arbitrary and capricious, in violation of federal law.

The evidence of fraud in violation of state law contained in the Westwood and Corinthian DTR Applications is overwhelming, and justice requires that the Department discharge the loans of those students covered by the Applications. These deserving students, through no fault of their own, have been unfairly saddled with overwhelming debt loads while the Department has ignored its obligations for over two years. I look forward to your prompt response.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kwame Raoul', written over a horizontal line.

Kwame Raoul
Illinois Attorney General